

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FELIX MENA,

Plaintiff,

Civil Action No.:

-against-

NOTICE OF REMOVAL

ROBBIN POTRAFKA and SALEM LEASING
CORPORATION,

Defendants.

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**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

Defendants, ROBBIN POTRAFKA and SALEM LEASING CORPORATION, by their undersigned attorneys, file this notice and petition this Court to remove the above-captioned case to the United States District Court for the Eastern District of New York and respectfully show this Court:

1. A civil action was commenced on or about September 22, 2021, by FELIX MENA (hereafter “Plaintiff”) against defendants ROBBIN POTRAFKA and SALEM LEASING CORPORATION by filing a Summons and Complaint in the Supreme Court of the State of New York, Nassau County. This action is captioned *Felix Mena v. Robbin Potrafka and Salem Leasing Corporation* and bears State Court Index Number 612100/2021. A copy of the Summons and Complaint is annexed hereto as **Exhibit “A.”** In sum, this civil action alleges personal injuries sustained in a motor vehicle accident that occurred on July 30, 2021, in the Whole Foods parking lot, located on North Broadway, at a point approximately 500’ north of Village Drive, Oyster Bay, New York.

2. On December 9, 2021, the Defendants served a Verified Answer, a copy of which is annexed as **Exhibit “B.”** Simultaneously, Defendants served a Demand for Ad Damnum, a copy of which is annexed as **Exhibit “C.”** On December 29, 2021, Plaintiff responded to the Demand for Ad Damnum, a copy of which is annexed as **Exhibit “D.”** In Plaintiff’s Response to the Demand for Ad Damnum, Plaintiff conveyed her demand of \$5,000,000. *Id.*

3. As Plaintiff served her response to Defendant’s Demand for Ad Damnum on December 29, 2021, first conveying her demand in excess of \$75,000.00, this motion is timely pursuant to 28 U.S.C. § 1446(b)(3).

4. Plaintiff seeks damages for personal injuries allegedly caused by the Defendants’ negligence in the amount of \$5,000,000. Accordingly, the amount in controversy in this suit is in excess, exclusive of interest and costs, of \$75,000. *See* 28 U.S.C. § 1332 (a).

5. There is complete diversity of citizenship between the plaintiff and the defendants:

- a. From the date of the alleged incident on July 30, 2021, through present, Plaintiff Felix Mena has been a resident and domiciliary of the State of New York, residing at 9 Winston Lane, Port Jefferson Station, New York 11776. *See* Plaintiff’s Bill of Particulars at ¶ 1, annexed hereto as **Exhibit “E.”**
- b. From the date of the alleged incident on July 30, 2021, through present, defendant ROBBIN POTRAFKA has been a resident of South Carolina, residing at 246 Jay Jay Road, West Union, South Carolina 29696.
- c. From the date of the alleged incident on July 30, 2021, through present, defendant SALEM LEASING CORPORATION’s principal address has been in North Carolina, at 175 Charlois Boulevard, Winston-Salem, North Carolina 27103.

6. Because there is complete diversity of citizenship and the amount in controversy exceeds \$75,000, this action is one over which the United States District Court has original jurisdiction pursuant to 28 U.S.C. § 1332. Therefore, the action can be removed to this Court pursuant to 28 U.S.C. § 1441.

7. Written filing of this motion will be given to the plaintiff promptly after the filing of this motion, as required by law.

8. A true and correct copy of this motion will be filed with the Clerk of the Supreme Court of the State of New York, Nassau County, promptly after the filing of this motion, as is required by law.

9. Attached to this motion, and by reference made a part hereof, are true and correct copies of all process, pleadings and orders filed in the aforesaid action as required by 28 USC § 1446(a). A copy of plaintiff's Verified Bill of Particulars is annexed hereto as **Exhibit E**.

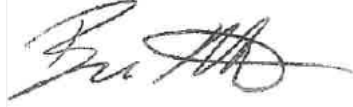
10. By filing this Notice of Removal, Defendants do not waive any defenses which may be available to them, specifically including, but not limited to, their right to contest in personam jurisdiction over the petitioners, improper service of process upon them, and the absence of venue in this Court or in the court from which the action has been removed.

WHEREFORE, Defendant prays that this action be removed to this Court and proceed in this Court as an action properly removed thereto.

Dated: White Plains, New York
January 26, 2021

Yours, etc.

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP



By:

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